

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10
L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11
IO-13 ACDA-12 MCT-02 /093 W
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P R 251309Z AUG 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC PRIORITY 1337
USMISSION USBERLIN PRIORITY
INFO AMEMBASSY LONDON
AMEMBASSY PARIS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 15487

E.O. 11652: XGDS-1
TAGS: PGOV, BQG, AKB
SUBJECT: ARMING JUDGES AND PROSECUTORS IN BERLIN

REFS: (A) STATE 209826; (B) STATE 208596;
(C) USBER 1932; (D) BONN 14795; (E) BONN 13415

1. ON AUGUST 24, THE ALLIED BONN GROUP REPS DISCUSSED
TRIPARTITELY THE SUBJECT OF ARMING JUDGES AND PROSECU-
TORS. THE UK REP (EYERS) REPORTED HIS INSTRUCTIONS,
WHICH ANSWERED THE FRENCH ARGUMENTS IN REF E ALONG
FAMILIAR LINES. EYERS SAID INTER ALIA THAT WHILE STOBBE
MAY NOT HAVE PRESSED THE ALLIES, THE SENAT CAN SAY THAT
IT MADE A FORMAL REQUEST LAST YEAR. THE SENAT, SHOULD
AN UNTOWARD INCIDENT ARISE, WOULD THUS BE IN A POSITION
TO SAY THAT IT HAD RAISED THE MATTER IN BERLIN AND THAT
THE FRG HAD DONE THE SAME IN THE BONN GROUP BUT THE
ALLIED RESPONSE WAS NEGATIVE.

2. WITH RESPECT TO THE FRENCH ARGUMENT THAT THE
CONSISTENT ALLIED ANSWER TO SUCH REQUESTS SINCE L974
HAS BEEN NEGATIVE, EYERS SAID THAT THE EARLIER RE-
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SPONSES WERE BASED ON LEGAL OBJECTIONS, WHICH WE HAVE
NOW FOUND A WAY TO OVERCOME. REGARDING THE FRENCH
ARGUMENT ON THE FREIWILLIGE POLIZEI RESERVE, HE SAID
THAT WHILE SUCH PERSONS CAN BEAR ARMS ONLY WHILE ON
DUTY, THEY COULD BE TREATED AS BEING ON DUTY WHILE
SERVING THEIR BODYGUARD FUNCTIONS. NONE OF THE OTHER
ANSWERS PRESENTED BY EYERS WERE NEW.

3. EYERS CONTINUED BY SAYING THAT WHILE THE BRITISH ATTACH GREAT IMPORTANCE TO ALLIED SOLIDARITY, AND HAD KEPT SILENT IN THE PAST IN THE INTEREST OF THAT SOLIDARITY, THEY COULD NOT, IF ASKED, SAY THAT THEY OBJECTED TO THE ARMING OF JUDGES AND PROSECUTORS. THE US REP SAID THAT WHEN THE QUESTION WAS A STRICTLY LEGAL ONE INVOLVING AN INTERPRETATION OF ALLIED LAW, TRIPARTITE DISCUSSION WAS APPROPRIATE. NOW, HOWEVER, THE OBJECTIONS BEING POSED WERE POLITICAL ONES AND HE HAD BEEN INSTRUCTED TO INTRODUCE THE QUESTION INTO THE FULL BONN GROUP FOR A DISCUSSION. IN ANSWER TO THE ARGUMENT BY THE FRENCH REP (RICHARD) THAT NEITHER GOVERNING MAYOR STOBBE NOR THE FRG HAD FORMALLY ASKED THE ALLIES TO PERMIT THE ARMING OF JUDGES AND PROSECUTORS, THE US REP SAID THAT THIS WOULD BE ONE OF THE BENEFITS OF INTRODUCING THE SUBJECT IN THE BONN GROUP WITH THE STATEMENT THAT THE ALLIES HAD CONCLUDED THAT THE LEGAL OBJECTIONS WERE SURMOUNTABLE. THIS WOULD LEAD TO A DISCUSSION OF THE POLITICAL VIEWS OF THE PARTIES AND WE WOULD SEE HOW MUCH THE GERMANS WISHED TO PRESS. HE SAID HE WOULD OF COURSE DELAY INTRODUCING THE SUBJECT UNTIL RICHARD HAD AN OPPORTUNITY TO REPORT TO PARIS AND RECEIVE FURTHER GUIDANCE.

4. IN ACCORD WITH THE FRENCH DEPUTY POLAD'S MENTION
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OF THE NEED FOR A "NEW" ELEMENT (REF C), RICHARD ASKED

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C O N F I D E N T I A L SECTION 02 OF 02 BONN 15487

WHETHER IT MIGHT BE POSSIBLE TO DELAY BONN GROUP DISCUSSION UNTIL HE HAD HAD TIME TO INQUIRE OF PARIS WHETHER THE QUAI MIGHT AGREE TO AN APPROACH TO STOBBE. ACCORDING TO HIS SUGGESTION, THE ALLIES WOULD SAY THEY HAD FOUND A WAY LEGALLY TO PERMIT STOBBE, LORENZ AND THE JUDGES AND PROSECUTORS TO CARRY ARMS AND ASK WHETHER STOBBE WISHED THE ALLIES TO PERMIT SUCH BEARING OF ARMS IN BERLIN. THE UK AND US REPS AGREED THAT THIS WAS A REASONABLE SUGGESTION, PROVIDED THAT THE QUAI WOULD AGREE TO PERMIT THE BEARING OF ARMS IF STOBBE SO REQUESTED. THE US REP SUGGESTED WE MIGHT ALSO POSE THE SAME QUESTION TO THE FRG IN THE BONN GROUP BUT THE DISCUSSION ON THIS PARTICULAR POINT WAS INCONCLUSIVE, RICHARD APPARENTLY PREFERRING TO KEEP THIS ASPECT OF THE QUESTION IN BERLIN. RICHARD SAID HE WOULD RAISE THE MATTER WITH THE QUAI AND INFORM US OF THE REACTION.

5. COMMENT: WE DO NOT KNOW WHETHER RICHARD'S NEW AND MORE FORTHCOMING APPROACH REFLECTS A FALLBACK POSITION OR MERELY THE VIEW OF THE FRENCH EMBASSY HERE AND THE CONFIDENTIAL

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FRENCH MISSION IN BERLIN. IN ANY CASE, THIS APPEARS WORTH A TRY AND WE WILL, UNLESS INSTRUCTED TO RAISE THE SUBJECT IN THE BONN GROUP ON AN URGENT BASIS, AWAIT THE FRENCH REACTION.

6. ON THE QUESTION OF APPOINTED COUNSEL, EYERS SAYS HE UNDERSTANDS THAT THEY DO NOT WANT TO CARRY ARMS. DOES USBER HAVE ANYTHING MORE ON THIS? MEEHAN

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